

REMARKS

The Examiner's indication of allowable claims is noted with appreciation. Reconsideration and allowance of the subject application in view of the preceding amendments and the following remarks is respectfully requested.

Claims Amendments/Status

By way of this reply, claim 11 has been amended to recite "an access terminal requesting a call connection" and "judging whether or not a connection deny message is received by the access terminal from the 1xEV-DO system." This claim amendment finds solid support in page 10, lines 5-12 and page 11, lines 19-22 of the original specification. No new matter has been introduced through these amendments.

Rejection Under 35 U.S.C. § 101

Claims 11, 16, 17, and 20 have been rejected under 35 U.S.C. § 101 as being directed to not-statutory subject matter. This rejection is traversed for the following reasons.

Applicants believe that original claim 11 is patent-eligible because the claim is directed to a method for switching a call connection to a CDMA 2000 1X system. Regarding the issue of patentable subject matter, the United States Court of Appeals for the Federal Circuit has ruled that a claimed process is surely patent-eligible under § 101 if: (1) *it is tied to a particular machine or apparatus*, or (2) *it transforms a particular article into a different state or thing* (emphasis added). See *In re Bilski* 545 F.3d 943, 88 U.S.P.Q.2d 1385 (2008). In view of the Federal Circuit's "machine-or-transformation" test, original claim 11 is patent-eligible under 35 U.S.C. § 101, because the claimed method is tied to a particular machine or apparatus, *i.e.*, a CDMA 2000 1X system, and fulfills the test.

Nonetheless, in order to expedite prosecution, Applicants amend independent claim 11 to recite "an access terminal requesting a call connection" and "judging whether or not a connection deny message is received by the access terminal from the 1xEV-DO system." Because the claimed method further recites a particular machine or apparatus, *i.e.*, an access terminal, it is clearer that independent claim 11 and its dependent claims are directed to statutory subject

matter. Accordingly, Applicants respectfully submit all claims are patent-eligible, and request that the 35 U.S.C. § 101 rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited. Early issuance of a Notice of Allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicants' attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP

/Yoon S Ham/

Yoon S. Ham

Registration No. 45,307

1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
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